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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/668,120 | 09/23/2003 | Leonard T. Chapman | 54767.8064.US00 | 1992 |
| 34055 | 7590 | 08/18/2005 | | |
| PERKINS COIE LLP POST OFFICE BOX 1208 SEATTLE, WA 98111-1208 | | | EXAMINER MATHEWS, ALAN A | |
| | | | ART UNIT 2851 | PAPER NUMBER |
| DATE MAILED: 08/18/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/668,120 | Applicant(s) CHAPMAN, LEONARD T. | |
| | Examiner Alan A. Mathews | Art Unit 2851 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,5,7-10,15 and 16 is/are rejected.
- 7) ☒ Claim(s) 2-4,6,11-14 and 17-19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on June 6, 2005, has been reviewed and is NOT accepted. Although Applicant stated that a check covering the Terminal Disclaimer filing fee of \$65.00 was enclosed in the Applicant's response, the Patent and Trademark Office did not receive the check. The PTO has no record that the check was sent into the PTO.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 and 7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,450,706. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Art Unit: 2851

claim 1 of U.S. Patent No. 6,450,706 discloses a camera crane comprising: post assembly; a boom arm pivotally connected to the post assembly; a counter weight platform connected to a second end of the boom arm at a second pivot joint (i.e. pivotally connected to a second end of the boom arm); a track section arm attached to a first end of the boom arm at a first pivot joint (i.e. pivotally attached to a first end of the boom arm); a track section attached to the track section arm; and a camera frame linearly movable along the track section, with the camera frame including a base plate for supporting the camera. With respect to claim 7 of the instant application, claim 1 of U.S. Patent No. 6,450,706 discloses a boom arm, a track section arm (front section) attached to a first end of the boom arm at a first pivot joint; a counter weight platform at a second end of the boom arm, and a leveling rod attached to the counter weight platform and to the track section arm (front section).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Maugard (U.S. Patent No. 2,156,862). Maugard discloses in figure 1 a post assembly 6 and a boom arm 16 pivotally connected to the post assembly. Element 25 is the balancing means. Elements 32, 33,

Art Unit: 2851

35, 36, and 40 could be considered a track section. Upon loosening setscrew 33, collar 32 could pivot around the boom. Furthermore, elements 35 and 36 allow pivoting movement relative to the boom arm about a first axis, and about a second axis perpendicular to the first axis. The ball 34, itself, allows pivoting about two perpendicular axes. Element 32 also allows pivoting. With respect to Applicant's arguments that Maugard does not have a track section, the Examiner respectfully disagrees. The term "track section" is broad. Element 32 could be considered a track section, and element 32 does provide translational or linear movement after loosening set screw 33. Furthermore, claim 5 does not recite any translational or linear movement of the track section. It is also noted that merely reciting a "track section" does not necessarily mean that there is translation or linear movement. With respect to claim 8, the support table 61 is linearly movable.

6. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Morris et al. (U. S. Patent No. 6,478,427). Morris discloses in figure 1 a beam 34 pivoted to post 130. Element 300 is the balancing means for balancing the boom arm. Elements 245 and 244 and 242a in figure 2 comprise a track section pivotally attached (see arrow 246) to beam arm 34. Arrow 246 shows pivoting about a first axis and arrow 247 shows pivoting about a second axis.

7. Claims 9 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cunningham (U. S. Patent No. 2,224,901). Cunningham discloses in figures 1 and 6 a post and a boom arm with side members 36 and 37. A front section 55 is attached to the boom arm and a rear section 52 is attached to the boom arm. Lead weights 53 comprise the counter weight. The support

Art Unit: 2851

member includes elements 48 and 49, which are attached to the front section and the rear section adjacent the pivot. Members 48 and 49 are also attached to 47 which is also adjacent the pivot.

It is noted that the term “adjacent” is a very broad term.

8. Claims 9, 10, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by the German patent document DE 3628782 A1. The German patent document DE 3628782 A1 discloses in figure 1 a post 10 pivoted at 6 to a boom arm 12. Element 36 is the counter weight. A front section could be any part of element 12 on the front side of the pivot. A rear section could be some part of 12 to the rear of pivot 6. The struts of 12 which are at angles (or diagonal) in figure 1 are considered to be a support member attached to the front section and the rear section adjacent the pivot pint 6. It is noted that the term “support member” could include other elements, since very little is recited defining what the support member is. With respect to claim 10, element 30 is a leveling rod which is linked in some manner to the counter weight and the front section.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2851

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent document DE 3334428 A1 in view of the German patent document De 3628782 A1. The German patent document DE 3334428 A1 discloses in figures 1 and 4 a boom arm 12 including a first section 30, 31, and 32 which is attached to the boom arm (if elements 30, 31 and 32 were not attached to the boom arm, they would fall to the ground). Elements 30, 31, and 32 are pivotable relative to the boom arm at pivot point 38 about a first axis and elements 30, 31, and 32 are pivotable relative to the boom arm about an axis at 29. Thus, the German patent document DE 3334428 A1 discloses the invention in claim 1 except for having a counter weight platform at a second end of the boom arm. The German patent document De 3628782 A1 discloses a counter weight 36 at the other end of the boom arm. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide the German patent document DE 3334428 A1 with a counter weight at a second end of the boom arm in view of the German patent document De 3628782 A1 for the purpose of providing more stability to the crane arm and thus produce better pictures. With respect to Applicant's arguments, the Examiner respectfully disagrees with Applicant's arguments, since the first section 30, 31, and 32 do pivot about two axis relative to the boom arm. The fact that there may be intermediate structure is not pertinent to the claim as it is written.

Allowable Subject Matter

11. Claims 2-4, 6, 11-14, and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of

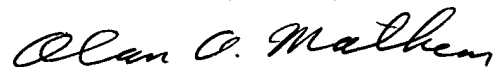
Art Unit: 2851

the base claim and any intervening claims. Claims 1-4 would be allowable subject to filing a proper terminal disclaimer (i.e. paying the fee or presenting evidence that the fee was paid).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan A. Mathews whose telephone number is (571) 272-2123. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan A. Mathews
Primary Examiner
Art Unit 2851

AM